

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 202
SPONSOR: Comprehensive Planning Committee, Senator Clary and others
SUBJECT: Property Tax Exemptions
DATE: December 8, 2003 REVISED: 1/5/04

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	<u>Krasovsky</u>	<u>Krasovsky</u>	<u>MS</u>	<u>Fav/1 amendment</u>
3.	<u> </u>	<u> </u>	<u>FT</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>AGG</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This CS grants a property tax exemption to the un-remarried surviving spouse of a disabled ex-service member who, on the date of the disabled ex-service member's death, had been married to the disabled ex-service member for at least 20 years.

This bill amends sections 196.012 and 196.24 of the Florida Statutes.

II. Present Situation:

Property Assessments

Article VII, s. 4 of the State Constitution requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value. Section 4 also provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or totally exempted.

Article VII, s. 4(c) of the State Constitution, provides for a homestead property assessment increase limitation. Annual increases in homestead property values is limited to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. The value of changes, additions, reductions or improvements to the homestead property is assessed as provided by general law.

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹

Article VII, s. 6 of the State Constitution authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate. Section 196.031, F.S., primarily implements the homestead exemption, although other statutory sections provide specific procedures and conditions, i.e., procedures for application for the exemption (s. 196.011, F.S.), the extent of the exemption (s. 196.041, F.S.), and the effect of rental of homestead property.

Article VII, s. 3(b) of the State Constitution requires that not less than \$500 of property, as established in general law, of widows and widowers and persons who are blind or totally and permanently disabled be exempt from taxation. The widows/widowers exemption is implemented in s. 196.202, F.S.

The exemption for totally and permanently disabled persons is implemented in chapter 196, F.S. Sections 196.081 and 196.091, F.S., provide for total homestead exemptions for disabled veterans and their surviving spouses. Section 196.101, F.S., exempts the total value of homesteads used and owned by quadriplegics, paraplegics, hemiplegics, or “other totally and permanently disabled person, as defined in s. 196.012(11), F.S., who must use a wheel chair for mobility or who is legally blind...” Section 196.012(11), F.S., defines a “totally and permanently disabled person” as a person certified as totally and permanently disabled by two licensed physicians, by the U.S. Department of Veterans Affairs, or by the Social Security Administration.

Exemption for Disabled Ex-Service Members

Section 196.24, F.S., provides a \$5,000 reduction in taxable value to any resident, “ex-service member”² who has been disabled to a degree of 10 percent or more while serving during a period of wartime service or by misfortune while in active service.³ To qualify, the applicant

¹*Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So.2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So.2d 415 (Fla. 1978). *Sparkman v. State*, 58 So.2d 431, 432 (Fla. 1952).

² Pursuant to Title 38, USC, sec. 4303 - (13), the term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32. Subsection (16) defines the term "uniformed services" as the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

³ This statutory provision was created by ch. 69-55, L.O.F. However, it was preceded by s. 192.11, F.S., as authorized by Art. IX, s. 9 of the State Constitution (1885). That provision in the constitution provided that: “There shall be exempt from

must produce a certificate of disability from the United States Government or the United States Department of Veterans Affairs. On average, each person qualifying for the exemption receives a property tax reduction of \$100 per year. An estimated 73,750 exemptions were granted statewide in 2003.

III. Effect of Proposed Changes:

Section 1 creates subsection (20) of s. 196.012, F.S., to define an "ex-service member" as "any person who has served as a member of the United States Armed Forces on active duty or state active duty, a member of the Florida National Guard, or a member of the United States Reserve Forces."

Section 2 amends s. 196.24, F.S., to grant the \$5,000 property tax exemption to the un-remarried surviving spouse of a veteran who is otherwise entitled to the exemption. To obtain the exemption, the un-remarried spouse must have been married to the veteran for at least 20 years. This exemption for the un-remarried surviving spouse would be in addition to the \$500 property tax exemption available to all resident widows and widowers in this state, pursuant to s. 196.202, F.S.

In addition, the exemption is restricted to ex-service members who were discharged under honorable conditions. This will exclude members who separated from the services with a bad conduct or dishonorable discharge.

Section 3 provides that this act will take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

By granting a \$5,000 property tax exemption to the un-remarried surviving spouse of a disabled ex-service member who is otherwise entitled to the exemption, the bill is anticipated to reduce the municipalities' and counties' property tax base, thereby reducing their revenue-raising authority. As such, this bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate.

In the 2003 Legislative Session, the Revenue Impact Conference estimated the fiscal impact of similar legislation to be less than \$1 million. Until the Impact Conference has reviewed this bill, an estimate of its impact is not available. If the fiscal estimate is less than \$1.73 million, the bill will be exempt from the constitutional restriction. Otherwise, the legislature may only enact this law by a 2/3 vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

This bill grants a property tax exemption to the un-remarried surviving spouse of a disabled ex-service member who was otherwise entitled to the exemption. In the 2003 Legislative Session, the Revenue Impact Conference estimated the fiscal impact of similar legislation to be less than \$1 million.

B. Private Sector Impact:

If enacted into law, qualified un-remarried surviving spouses of disabled ex-service members will benefit from reduced ad valorem taxes. This reduction in the property tax base will result in a corresponding shift in property tax burden to other property owners.

C. Government Sector Impact:

County Property Appraisers will be responsible for processing applications for the un-remarried surviving spouse of a disabled ex-service member who is otherwise entitled to the exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Senate Military and Veterans' Affairs, Base Protection, and Spaceports:

The duration of time the surviving spouse has to be married to the ex-servicemember to receive the exemption is reduced from twenty years to one year.